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LAW OFFICE
THOMAS F. MCFARLAND, P.C.
208 SOUTH LASALLE STREET - SUITE 1890
CHICAGO, ILLINOIS 60604-1112
TELEPHONE (312) 236-0204
FAX (312) 201-9695
mcfarland@aol.com

THOMAS F. MCFARLAND

February 14, 2008

By e-filing

Anne K. Quinlan, Esq.
Acting Secretary
Surface Transportation Board
395 E Street, S.W., Suite 1149
Washington, DC 20024

Karl Morell, Esq.
Ball Janik, LLP
1455 F Street, N.W.
Suite 225
Washington, DC 20005

Re Docket No. AB-853 (Sub-No. 1X), *Kansas & Oklahoma Railroad, Inc. --
Abandonment Exemption -- in Hodgeman, Comanche, Kiowa and Pratt Counties,
KS*

Dear Ms. Quinlan & Mr. Morell:

Hereby transmitted is a Petition for Issuance of a Notice of Interim Trail Use, for filing with the Board in the above referenced matter.

No filing fee is required because Petitioner is a unit of Hodgeman County Government.

FILED

FEB 14 2008

**SURFACE
TRANSPORTATION BOARD**

TMF kl enc wp8 01292 JSTB1

Very truly yours,

Tom McFarland

Thomas F. McFarland
Attorney for Petitioner

FEE RECEIVED

FEB 14 2008

**SURFACE
TRANSPORTATION BOARD**

FILING FEE WAIVED

BEFORE THE
SURFACE TRANSPORTATION BOARD

KANSAS & OKLAHOMA RAILROAD,)
INC - ABANDONMENT EXEMPTION -) DOCKET NO AB-853
- IN HODGEMAN, COMANCHE,) (SUB-NO 1X)
KIOWA AND PRATT COUNTIES, KS)

PETITION FOR ISSUANCE OF A
NOTICE OF INTERIM TRAIL USE

HODGEMAN COUNTY
ECONOMIC DEVELOPMENT
LEA ANN SEILER, Director
P O Box 121
Jetmore, KS 67854

Petitioner

By THOMAS F McFARLAND
 THOMAS F McFARLAND, P C
 208 South LaSalle Street, Suite 1890
 Chicago, IL 60604-1112
 (312) 236-0204
 (312) 201-9695 (fax)
 mcfarland@aol.com

Attorney for Petitioner

DATE FILED February 15, 2008

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

KANSAS & OKLAHOMA RAILROAD,)
INC -- ABANDONMENT EXEMPTION -) DOCKET NO AB-853
- IN HODGEMAN, COMANCHE,) (SUB-NO 1X)
KIOWA AND PRATT COUNTIES, KS)

**PETITION FOR ISSUANCE OF A
NOTICE OF INTERIM TRAIL USE**

Pursuant to 49 C F R § 1152.29(a), HODGEMAN COUNTY ECONOMIC DEVELOPMENT, a unit of government of Hodgeman County, Kansas (the County), hereby respectfully petitions for issuance of a Notice of Interim Trail Use (NITU) providing for a 180-day period for the County to negotiate with KANSAS & OKLAHOMA RAILROAD, INC (K&O) for railbanking and interim recreational trail use of the right-of-way between Milepost 36.3 at Hanston and Milepost 47.0 at Jetmore, in Hodgeman County, KS.

In a decision issued on November 13, 2007, the Board vacated an NITU for that right-of-way that had been issued to American Trails Association (ATA) on November 25, 2003.¹¹ The County understands that K&O has not consummated abandonment of the involved right-of-way, and is agreeable to negotiating with the County for railbanking and interim trail use.

The following are included in a Statement of Willingness to Assume Financial Responsibility, attached to this Petition as Appendix 1.

¹¹ The NITU also included a 46.8-mile right-of-way between Milepost 589.2 at Coats and Milepost 636.0 at Protection, in Comanche, Kiowa and Pratt Counties, KS. A new NITU for that right-of-way was issued in a decision in this docket, served February 4, 2008.

- (1) a map depicting the right-of-way proposed to be acquired,
- (2) a statement of the County's willingness to assume responsibility for (a) managing the right-of-way, (b) any legal liability arising out of use of the right-of-way, and (c) payment of all taxes assessed against the right-of-way; and
- (3) an acknowledgment that interim trail use is subject to the user's continuing to meet its responsibilities identified above, and to possible reconstruction and reactivation of the right-of-way for rail service

WHEREFORE, the Board should issue the requested NTU

Respectfully submitted,

HODGEMAN COUNTY
ECONOMIC DEVELOPMENT
LEA ANN SEILER, Director
P O. Box 121
Jelmore, KS 67854

Petitioner

Thomas F McFarland

By: THOMAS F McFARLAND
THOMAS F McFARLAND, P C
208 South LaSalle Street, Suite 1890
Chicago, IL 60604-1112
(312) 236-0204
(312) 201-9695 (fax)
mcfarland@aol.com

Attorney for Petitioner

DATE FILED February 15, 2008

APPENDIX 1

**Statement of Willingness
To Assume Financial Responsibility**

In order to establish interim trail use and rail banking under 16 U S C § 1247(d) and 49 C F R § 1142.29, *Hodgeman County Economic Development*, a unit of government of Hodgeman County, Kansas (the County), is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned and operated by Kansas & Oklahoma Railroad, Inc (K&O). The property extends from railroad Milepost No. 36.3 at Hanston and Milepost 47.0 at Jetmore, a distance of 10.7 miles in Hodgeman County, Kansas. The right-of-way is part of a line of railroad proposed for abandonment in Docket No. STB AB-853 (Sub-No. 1X).

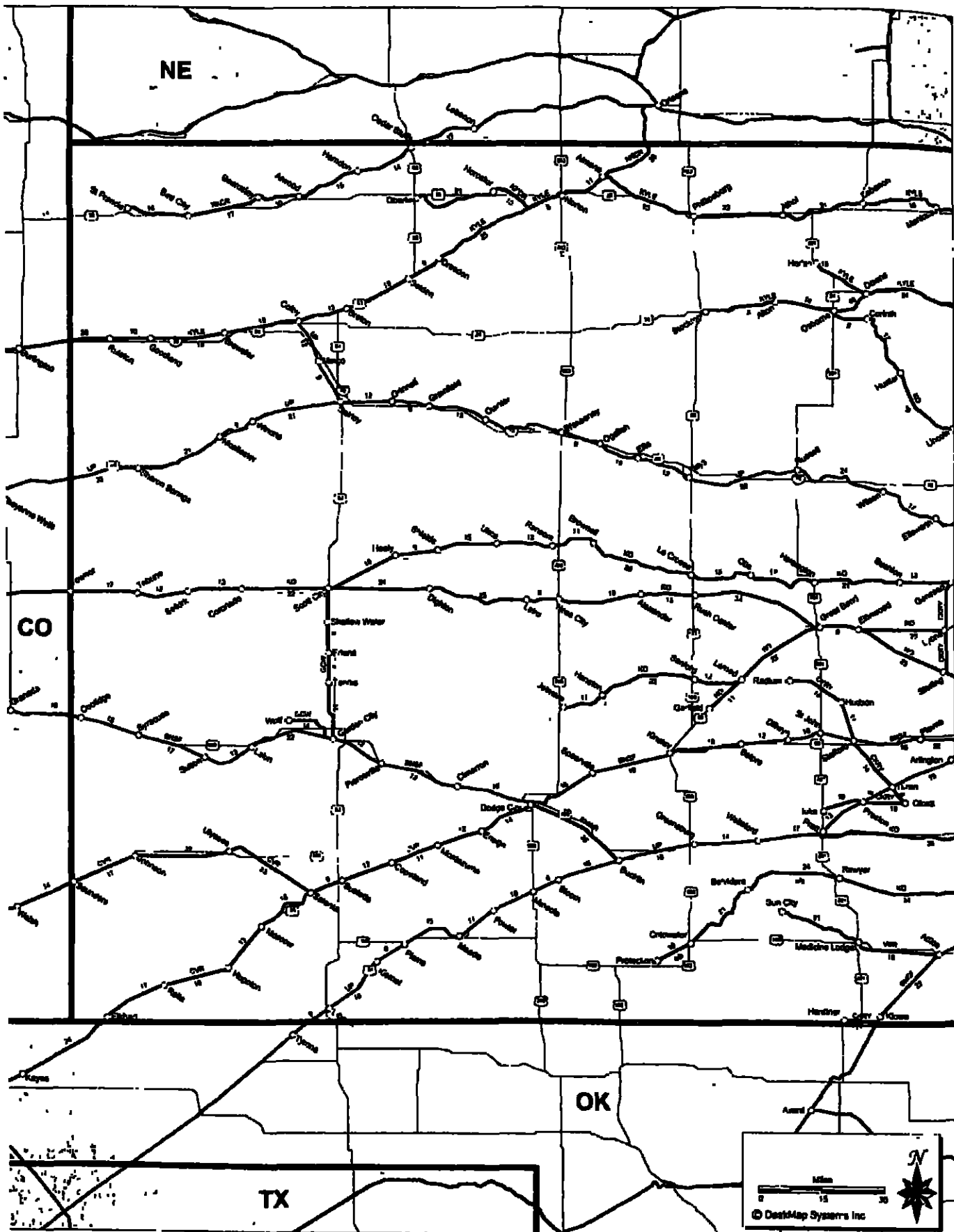
A map of the property depicting the right-of-way is attached.

The County acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad on the same date it is being served on the Board.

Thomas F McFarland

Thomas F McFarland
Attorney for Petitioner

KANSAS



CERTIFICATE OF SERVICE

I hereby certify that on February 15, 2008, I served the foregoing document, Petition
For Issuance Of A Notice Of Interim Trail Use, on Karl Morell. Esq , Ball Janik, I.I.P 1455 F
Street, N W , Suite 225, Washington, DC 20005, by first-class, U S mail, postage prepaid

Thomas F. McFarland

Thomas F McFarland